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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/751,702

12/29/2000

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04/20/2007

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/751,702

Applicant(s)

DURDEN, ET AL

Examiner

Reuben M. Brown

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 & 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/9/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/2/2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 3-5, 11 & 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ming, (U.S. Pat # 5,710,815), in view of Oko, (U.S. Pat # 6,947,966).

Considering claim 1, system for controlling and managing presentation to viewers of programming content, the system comprising;

‘a processor communicating with memory and with a user interface, the processor adapted to receive the programming content comprising a program and program control data’, , reads on the decoder apparatus 200 (Fig. 17; col. 22, lines 50-67), which receives signals from the signal encoder 103 that combines the formatted access control data with a pre-existing video signal, (Fig. 1; col. 13, lines 10-40). The claimed ‘program’ corresponds with pre-existing video signal, and ‘program control data’ corresponds with formatted access control data.

The additional limitation, ‘the program control data having a data format in which a default entry’, reads on the disclosure in Ming of the global data that represents the main category rating for the instant program, (col. 7, lines 31-45; col. 8, lines 5-14; col. 8, lines 51-67; col. 19, lines 20-55).

‘is subsequently followed by a series of data records, with one or more of the data records associated with a particular portion of the program, the one or more records having a linear representation comprising an offset time stamp, a rating value content attribute value, a

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component value and an action', is met by the disclosure of Ming that the access control data may also include extended category authorization, which associates content values with particular portions of the TV program, col. 8, lines 14-60.

Accordingly, Ming teaches the claimed, 'offset time stamp' (col. 8, lines 29-60); 'rating value' (col. 9, lines 1-16; col. 26, lines 15-30); 'content attribute value' (col. 9, lines 35-67 thru col. 10, lines 1-25); 'component value' reads on the value of each attribute, with respect to portions of the program, (col. 10, lines 11-25); 'an action', reads on the preclusion of the video programming that exceeds a user set threshold, (col. 10, lines 20-25; col. 28, lines 60-65).

'the viewer interface adapted to receive information related to program presentation preferences of a viewer', reads on receiver receiving user designated threshold values, with respect to acceptable levels of content, (Abstract; col. 10, lines 1-34; col. 19, lines 1-20; Fig. 17; col. 22, lines 51-67).

'the processor adapted to (1) modify the program based on the program control data and (2) output the modified program for presentation on a display device', also reads on the operation of the decoder apparatus, Abstract; col. 25, lines 30-65; col. 26, lines 30-45.

'the processor receiving a vote via the user interface that suggests alternate plots for the program', is not disclosed by Ming. However, Oko teaches receiving, recording and tallying the votes of a plurality of viewers, see col. 6, lines 10-30. A user device, shown in Fig. 5, initially

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receives the votes, (col. 7, lines 49-55), before being sent to a network server 56. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ming with the feature of allowing users to vote on the outcome of broadcast, for the desirable benefit of increased user participation, which increases the interest of user in the broadcast, as taught by Oko, col. 4, lines 1-32.

‘processor receiving the alternative programming based on the tabulated votes’, reads on Oko, col. 8, lines 10-35.

Considering claims 3-4 & 13-14, Ming teaches that the offset time stamp refers to at least minutes and seconds from the start of the program, col. 8, lines 28-55. It is inferred that the hours value also maybe added, as necessary. Regarding claims 4 & 14, see Ming, col. 6, lines 5-65; col. 7, lines 15-65 & col. 25, lines 5-65.

Considering claims 5 & 15, Ming does not discuss the use of substitute audio/video portions. Official Notice is taken that at the time the invention was made, the use of substitute audio/video to play instead of audio/video programming that the user does not desire to hear/see, was well known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ming with the feature of using substitute audio/video portions, at least for the improvement of giving the user more than a blank screen when programming is encountered that the user wishes to be precluded from seeing. The relative substitute audio/video portions would then necessarily also include a content rating value.

Considering claim 11, the claimed method for formulating programming content, comprises steps that correspond with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

5. Claims 2 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ming & Oko, further in view of Baransky, (U.S. Pat # 6,122,660).

Considering claims 2 & 12, Oko, col. 6, lines 40-65, teaches that alternative plots are transmitted to viewers, but does not explicitly teach transmitting the alternative plots into 'channels of programming'. Nevertheless Baransky, which is the same field of endeavor, discloses alternative programming being transmitted to viewers on a plurality of multiplexed streams, which reads on 'channels', col. 4, lines 5-60; col. 5, lines 10-30; 7, lines 30-67. It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify the combination of Ming & Oko with the feature of transmitting alternative plots over channels, at least for the benefit of avoiding the system requiring upstream communication, in order to present alternative content to viewers, as taught by Baransky, Abstract.

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**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**


(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

  
REUBEN M. BROWN  
PATENT EXAMINER